



**BILLING CODE 3510-22-P**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**RIN 0648-XF328**

**Magnuson-Stevens Fishery Conservation and Management Act; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permit**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice; request for comments.

**SUMMARY:** The Regional Administrator, NMFS West Coast Region, has determined that twenty-seven exempted fishing permit (EFP) applications warrant further consideration; therefore, NMFS is requesting public comment on the applications. All EFP applicants request an exemption from various prohibitions under the Fishery Management Plan for U.S. West Coast Fisheries for Highly Migratory Species (HMS FMP) to test the effects and efficacy of using deep-set buoy gear (DSBG) and linked buoy gear (LBG) to harvest swordfish and other highly migratory species (HMS) off of the U.S. West Coast. This notice also announces and requests public comment on NMFS' intent to extend a DSBG EFP.

**DATES:** Comments must be submitted in writing by *[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]*.

**ADDRESSES:** You may submit comments on this document, identified by NOAA-NMFS-2017-0025, by any of the following methods:

- Electronic Submission: Submit all electronic public comments via the

Federal e-Rulemaking Portal. Go to

[www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2017-0025](http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2017-0025), click the

“Comment Now!” icon, complete the required fields, and enter or attach your comments. EFP applications will be available under Relevant Documents through the same link.

- Mail: Attn: Chris Fanning, NMFS West Coast Region, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802. Include the identifier “NOAA-NMFS-2017-0025” in the comments.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on [www.regulations.gov](http://www.regulations.gov) without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

**FOR FURTHER INFORMATION CONTACT:** Chris Fanning, NMFS, West Coast Region, 562-980-4198.

**SUPPLEMENTARY INFORMATION:**

In 2015, the Pacific Fishery Management Council (Council) recommended that NMFS consider issuing three DSBG EFPs to target swordfish and other HMS off of the U.S. West Coast. After requesting public comment and completing required analyses, NMFS approved DSBG EFPs for the Pflieger Institute of Environmental Research (PIER), Timothy Ferguson, and Stephen Mintz for the 2015-2016 fishing seasons. Fishing activities under EFPs have yielded

two years of additional data to supplement an existing five years of data from DSBG research and trials. In December 2016 and January 2017, NMFS reissued the PIER and Perguson EFPs for a duration of two years. NMFS continues to support testing alternative gears as a means to increase domestic fishing opportunity while minimizing non-target bycatch and interactions with protected species.

At its recent meetings, the Council received additional applications for EFPs and recommended that NMFS consider issuing or reissuing EFPs to a suite of interested applicants. During its November 2016 meeting, the Council recommended that NMFS reissue Stephen Mintz' EFP for the 2017-2018 fishing seasons. At its March and June 2017 meetings, the Council recommended that NMFS consider issuing a total of twenty EFPs to authorize use of DSBG and/or LBG (see Table 1). LBG is defined as connectable segments of linked buoys floating at the ocean surface, connected to vertical lines with heavy weights allowing a horizontal line with three hooks to sink to the same depth as the terminal hook of DSBG. Additionally, seven other DSBG EFP applications were submitted for Council review, and require additional information for future consideration (see Table 2).

NMFS is requesting public comment on the twenty applications recommended for issuance by the Council as well as the seven applications that were not formally recommended by the Council at this time. If all applications were approved, the EFPs would allow up to thirty-two vessels to fish with DSBG and six vessels to fish with LBG, throughout the duration of each EFP, in the U.S. West Coast Exclusive Economic Zone (EEZ) with permitted exemption from the requirements of the HMS FMP pertaining to non-authorized gear types. Aside from the exemption described above, vessels fishing under an EFP would be subject to all other regulations implementing the HMS FMP, including measures to protect sea turtles, marine

mammals, and seabirds. For up-to-date information on HMS EFPs, please visit NMFS West Coast Region's "Status of Exempted Fishing Permits" webpage ([http://www.westcoast.fisheries.noaa.gov/fisheries/migratory\\_species/status\\_exempted\\_permits.html](http://www.westcoast.fisheries.noaa.gov/fisheries/migratory_species/status_exempted_permits.html)).

**Table 1. EFP Applications Recommended for Issuance by the PFMC.**

PFMC Recommended EFPs		
Name	Date of Council Recommendation	Number of Vessels
<b>Deep-Set Buoy Gear Applicants</b>		
Mintz, Stephen	November 2016	1
Hepp, Fred	March 2017	2
Jacobs, Kent	March 2017	1
Kastlunger, Jordyn	March 2017	1
Harris, Phil	March 2017	1
Corbin, Denny	March 2017	1
Diller, William	March 2017	1
Cullen, Roger	June 2017	1
Haworth, David & Arthur Lorton	June 2017	3
Ball, Bob	June 2017	1
Ford, John	June 2017	1
Graves, Michael	June 2017	1
Kennedy, Raymond	June 2017	1
Massen, Lance	June 2017	1
Selck, Dustin	June 2017	1
Shvets, Anatolii	June 2017	2
Sidielnikov, Andrii	June 2017	1
Spinale, Paul	June 2017	1
Stephens, J & B	June 2017	2
<b>Linked Buoy Gear Applicants</b>		
Pfleger Institute of Environmental Research	March 2017	3
Haworth, David & Arthur Lorton	June 2017	3

**Table 2. EFP Applications that the PFMC has yet to Recommend for Issuance.**

Submitted EFPs		
Name	Date of Submission	Number of Vessels
<b>Deep-Set Buoy Gear Applicants</b>		

Lutoshkin, A.	June 2017	1
Maassen, L.	June 2017	1
Masuda, S.	June 2017	1
McCarthy, M.	June 2017	2
Rynkevic, R.	June 2017	1
Sokolova, T.	June 2017	1
Sviridov, V.	June 2017	1

In March 2017, the Council also recommended that in addition to current terms and conditions on issued EFPs, NMFS also impose the following stipulations:

1. Require 100 percent observer coverage for the first ten sets of new EFP participants (a set is defined as 10 pieces of buoy gear soaked for at least eight hours). Once attained, observer coverage may be reduced to 30 percent of fishing days;
2. Prohibit vessels from being more than three nautical miles from any piece of gear;
3. Require proper maintenance of configured gear in accordance with their EFP; and
4. Require each piece of DSBG and the terminal ends of LBG to be marked with a radar reflector and flag, and require buoys to be marked with the fishing vessel's official number.

NMFS considers the Council's recommendations for additional conditions to apply to all issued and proposed DSBG and LBG EFPs. NMFS is also requesting public comment on the Council's recommendations for additional terms and conditions for the requested EFPs.

NMFS will consider all public comments submitted in response to this *Federal Register* Notice prior to issuance of any EFP mentioned within this Notice. Additionally, NMFS will analyze the effects of issuing EFPs in accordance with the National Environmental Policy Act and NOAA's Administrative Order 216-6, as well as ensure compliance with other applicable laws, including Section 7(a)(2) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*), which requires the agency to insure that the proposed action is not likely to jeopardize the continued

existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: August 23, 2017.

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Margo B. Schulze-Haugen,  
Acting Director,  
Office of Sustainable Fisheries,  
National Marine Fisheries Service.

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